

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

**FEDERAL TRADE COMMISSION,**

**Plaintiff,**

**v.**

**IVY CAPITAL, INC., et al.,**

**Defendants, and**

**CHERRYTREE HOLDINGS, LLC, et al.,**

**Relief Defendants.**

Case No. 2:11-cv-00283-JCM-  
GWF

**STIPULATED FINAL  
JUDGMENT AND ORDER  
FOR PERMANENT  
INJUNCTION AND  
MONETARY RELIEF**

Plaintiff, the Federal Trade Commission (the "FTC" or the "commission"), filed a complaint for permanent injunction and other equitable relief, including redress to consumers and disgorgement of ill-gotten gains (the "complaint"), pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (the "FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud Abuse Prevention Act (the "Telemarketing Act"), 15 U.S.C. §§ 6101-6108. The FTC and defendants Steven J. Sonnenberg ("Mr. Sonnenberg"), James G. Hanchett ("Mr. Hanchett"), Fortune Learning, LLC ("Fortune Learning") and The Shipper, LLC d/b/a Wholesalematch.com ("WSM"), by and through their counsel, hereby stipulate to the entry of, and request the court to enter, this stipulated final judgment and order for permanent injunction and monetary relief ("order"), to resolve all matters of dispute between them in this action.

**THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

**FINDINGS**

1. This is an action by the commission instituted under Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing Act, 15 U.S.C. §§ 6101-6108. The commission has authority to seek the relief contained herein;
2. The complaint states a claim upon which relief may be granted under Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC's trade regulation rule entitled the Telemarketing Sales Rule (the "TSR"), 16 C.F.R. Part 310;
3. This court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, 15 U.S.C. §§ 45(a), 53(b), 57b, 6102(c), and 6105(b);
4. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c), and 15 U.S.C. § 53(b);
5. The activities of the defendants as alleged in the commission's complaint are in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44;
6. The defendants have entered into this order freely and without coercion, and they acknowledge that they have read the provisions of this order, understand them, and are prepared to abide by them;
7. The FTC and the defendants, by and through their counsel, have agreed that the entry of this order resolves all matters in dispute between them arising from the complaint up to the date of entry of this order;
8. This order is for settlement purposes only and does not constitute and shall not be interpreted to constitute an admission by the defendants or a finding that the law has been violated as alleged in the complaint, or that the facts alleged in the complaint, other than the jurisdictional facts, are true;

- ## **DEFINITIONS**

1. **“And” and “Or”** shall be understood to have both conjunctive and disjunctive meanings.
2. **“Asset”** means any legal or equitable interest in, right to, or claim to, any real, personal, or intellectual property including, but not limited to, chattel, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, contracts, mail or other deliveries, shares or stock, securities, inventory, checks, notes, accounts, credits, receivables (as those terms are defined in the Uniform Commercial Code), cash, trusts, including but not limited to asset protection trusts, and reserve funds or other accounts associated with any payments processed on behalf of any defendant, including, but not limited to, such reserve funds held by a payment processor, credit card processor, or bank.
3. **“Assisting others”** includes, but is not limited to, providing any of the following goods or services to another entity: (1) performing customer service functions,

1 including, but not limited to, charging consumers for products or services, or  
2 receiving or responding to consumer complaints; (2) drafting or providing, or  
3 arranging for the drafting or provision of, any promotional material; (3) providing  
4 names of, or assisting in the generation of, potential customers; (4) performing  
5 promotional or marketing services of any kind, or recruiting affiliates; or (5)  
6 processing credit and debit card payments.

- 7 4. **"Business coaching program"** means any program, plan, product, or service,  
8 including, but not limited to, those related to work-at-home-opportunities, that is  
9 represented, expressly or by implication, to train or teach a participant or purchaser  
10 how to establish a business or earn money or other consideration through a business.  
11 "Business coaching" shall not include providing services other than training or  
12 teaching, including, but not limited to, website design and search engine optimization.
- 13 5. **"Commission"** or **"FTC"** means the Federal Trade Commission.
- 14 6. **"Corporate defendants"** means Fortune Learning, WSM, and their successors,  
15 assigns, affiliates or subsidiaries.
- 16 7. **"Defendants"** means the individual defendants and the corporate defendants,  
17 individually, collectively, or in any combination.
- 18 8. **"Document"** is synonymous in meaning and equal in scope to the usage of the term  
19 in the Federal Rules of Civil Procedure 34(a), and includes writing, drawings, graphs,  
20 charts, Internet sites, Web pages, Web sites, electronic correspondence, including e-  
21 mail and instant messages, photographs, audio and video recordings, contracts,  
22 accounting data, advertisements (including, but not limited to, advertisements placed  
23 on the World Wide Web), FTP Logs, Server Access Logs, USENET Newsgroup  
24 postings, World Wide Web pages, books, written or printed records, handwritten  
25 notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business

1 canceled checks and check registers, bank statements, appointment books, computer  
2 records, and other data compilations from which information can be obtained and  
3 translated, if necessary, through detection devices into reasonably usable form. A  
4 draft or non-identical copy is a separate document within the meaning of the term.

5 9. **"Individual defendants"** means Steven J. Sonnenberg and James G. Hanchett.

6 10. **"Material"** means likely to affect a person's choice of, or conduct regarding, goods  
7 or services.

8 11. **"Non-disparagement agreement"** means any contract or agreement that purports to  
9 prohibit purchasers from providing information, making statements, or otherwise  
10 communicating in any way about their experiences with any business coaching  
11 program or related goods and services, including but not limited to providing  
12 information to state, federal or non-governmental entities, filing complaints with any  
13 consumer protection entity, and engaging in discussions with other consumers  
14 through online forums or any other means.

15 12. **"Person"** means a natural person, organization, or other legal entity, including a  
16 corporation, partnership, proprietorship, association, cooperative, government or  
17 governmental subdivision or agency, or any other group or combination acting as an  
18 entity.

19 13. **"Representatives"** means defendants' officers, agents, servants, employees, and  
20 attorneys, and any other person or entity in active concert or participation with them  
21 who receives actual notice of this order by personal service or otherwise.

22 14. **"Telemarketing"** means any plan, program or campaign (whether or not covered by  
23 the TSR, 16 C.F.R. Part 310) that is conducted to induce the purchase of goods or  
24 services by means of the use of one or more telephones.  
25

**ORDER**

**I.**

**BAN ON MARKETING OR SALE OF  
BUSINESS COACHING PROGRAMS**

**IT IS THEREFORE ORDERED** that defendants and their representatives, whether acting directly or through any entity, corporation, subsidiary, division, director, manager, member, affiliate, independent contractor, accountant, financial advisor, or other device, are hereby permanently restrained and enjoined from:

- A. Advertising, marketing, promoting, offering for sale, or selling any business coaching program; and
- B. Assisting others engaged in advertising, marketing, promoting, offering for sale, or selling any business coaching program.

Nothing in this order shall prohibit Mr. Hanchett or Mr. Sonnenberg from working as, or under the direct supervision of, a licensed professional providing real estate, banking, legal, insurance, actuarial, construction, medical, dental, financial or accounting services.

**II.**

**PROHIBITED MISREPRESENTATIONS AND OTHER CONDUCT PROHIBITIONS**

**IT IS FURTHER ORDERED** that defendants and their representatives, whether acting directly or through any entity, corporation, subsidiary, division, director, manager, member, affiliate, independent contractor, accountant, financial advisor, or other device, are hereby permanently restrained and enjoined from:

- A. Making, or assisting others in making, directly or by implication, any false or misleading statement or representation of material fact, including, but not limited to, any false or

1 misleading statement that defendants or any other individual or entity will provide a  
2 refund to consumers who request one within a specified time period;

3 B. Failing to disclose or to disclose adequately to consumers material aspects of any refund  
4 policy; and

5 C. Requiring consumers to sign a non-disparagement agreement as a condition of receiving  
6 a refund.

7  
8 **III.**

9 **PROHIBITIONS AGAINST DECEPTIVE AND ABUSIVE TELEMARKETING  
10 PRACTICES**

11 **IT IS FURTHER ORDERED** that, in connection with telemarketing, defendants, and  
12 their representatives, whether acting directly or through any entity, corporation, subsidiary,  
13 division, director, manager, member, affiliate, independent contractor, accountant, financial  
14 advisor, or other device, **are hereby permanently restrained and enjoined from engaging in**  
15 **or causing or assisting other persons to engage in, violations of any provision of the TSR,**  
including, but not limited to, the following:

16 A. Misrepresenting, directly or by implication, in the sale of goods or services, any material  
17 aspect of the performance, efficacy, nature or essential characteristics of their products  
18 and services, in violation of Section 310.3(a)(2)(iii) of the TSR, 16 C.F.R. §  
19 310.3(a)(2)(iii);

20 B. Failing to disclose or to disclose adequately in a clear and conspicuous manner, all  
21 material terms and conditions of any refund policy, in violation of Section 310.3(a)(1)(iii)  
22 of the TSR, 16 C.F.R. § 310.3(a)(1)(iii), including that consumers must request a refund  
23 within a specified time period after purchase;

24 C. Misrepresenting, directly or by implication, material aspects of the nature and terms of  
25 any refund policy in violation of Section 310.3(a)(2)(iv) of the TSR, 16 C.F.R. §

1 310.3(a)(2)(iv), including that they will provide refunds to consumers who request one  
2 within a specified time period;

3 **D. Initiating, or causing others to initiate, outbound telephone calls to telephone numbers on**  
4 **the National Do Not Call Registry (the "DNC Registry") in violation of Section**  
5 **310.4(b)(1)(iii)(B) of the TSR, 16 C.F.R. § 310.4(b)(1)(iii)(B), unless**

6 1. the seller has obtained the express agreement, in writing, of such person to  
7 place calls to that person. Such written agreement shall clearly evidence such  
8 person's authorization that calls made by or on behalf of a specific party may  
9 be placed to that person, and shall include the telephone number to which the  
10 calls may be placed and the signature of that person; or

11 2. the seller has an established business relationship with such person and that  
12 person has not previously stated that he or she does not wish to receive  
13 outbound telemarketing calls made by or on behalf of the defendant or any  
14 other individual or entity; and

15 **E. Calling numbers on the DNC Registry without paying the annual fee necessary to access**  
16 **the list of numbers on the DNC Registry in violation of Section 310.8 of the TSR, 16**  
17 **C.F.R. § 310.8.**

18  
19 **IV.**  
**COOPERATION PROVISION**

20 **IT IS FURTHER ORDERED** that the defendants shall, in connection with this action or  
21 any subsequent investigations related to, or associated with, the transactions or the occurrences  
22 that are the subject of the complaint, cooperate in good faith with the FTC and any other  
23 governmental agency or entity, and appear at such places and times as the FTC or any other  
24 governmental agency or entity shall reasonably request, after written notice, for interviews,  
25 conferences, pretrial discovery, review of documents, and for such other matters as may be



1 reasonably requested by the FTC or any other governmental agency or entity. If requested in  
2 writing by the FTC or any other governmental agency or entity, the defendants shall appear and  
3 provide truthful testimony in any trial, deposition, or other proceeding related to, or associated  
4 with, the transactions or the occurrences that are the subject of the complaint, without the service  
5 of a subpoena upon them.

6  
7 **V.**  
**MONETARY RELIEF**

8 **IT IS FURTHER ORDERED** that judgment is hereby entered in favor of the  
9 commission and against the defendants, jointly and severally with all other defendants found  
10 liable in this case, in the amount of one hundred thirty million dollars (\$130,000,000) as  
11 equitable monetary relief for consumer injury; provided, however, that subject to the provisions  
12 of Section VI, this judgment shall be suspended upon defendants' completion of the  
13 requirements stated in subsections A, B and C of this section.

14 **A.** Effective upon the entry of this order, Mr. Hanchett shall surrender to the FTC all control,  
15 title, dominion, and interest in the 2007 Cadillac Escalade [Vin 1GYFK66887R176976]  
16 registered to Spincore, Inc. identified in Item 21 of the individual financial statement  
17 signed by Mr. Hanchett, dated March 3, 2011.

18 **B.** Effective upon the entry of this order, the corporate defendants shall surrender to the FTC  
19 all control, title, dominion, and interest in the following assets:

20 **1.** All assets of the corporate defendants;

21 **2.** All funds of any of the corporate defendants in the possession of the receiver.

22 **C.** To effect the surrender of the funds identified in subsection V.B.2, the court directs  
23 that the entities holding the funds or their successors shall, within ten (10) business  
24 days of the date of entry of this order, remit the funds to the commission by certified  
25 check(s) or other guaranteed funds payable to the FTC, Financial Management

1 Office, or by wire transfer in accordance with directions provided by counsel for the  
2 commission. To the extent any identified nonparty cannot comply with this subsection  
3 without the assistance of one or more of the defendants, such party must, within three (3)  
4 business days of receiving this order, notify the defendant(s) and counsel for the  
5 commission of its inability to comply. Such notification shall specify the actions by the  
6 defendant(s) that are necessary to comply with this order. The defendant(s) shall  
7 immediately complete any action necessary to facilitate the identified nonparty's ability  
8 to timely comply with this subsection, and the failure of the defendant(s) to complete  
9 such action within ten (10) days shall be deemed a violation of this order and interest at  
10 the rate prescribed in 28 U.S.C. § 1961(a) shall immediately begin to accrue.

11 **D.** In the event of default on any obligation to make payment under this order, interest,  
12 computed pursuant to 28 U.S.C. § 1961(a) shall accrue from the date of default to the  
13 date of payment. In the event such default continues for ten (10) calendar days beyond  
14 the date the payment is due, the entire amount of the judgment, less any amounts  
15 previously paid pursuant to this order, together with interest, shall immediately become  
16 due and payable. The defendants shall be liable for all payments required by this order  
17 and any interest on such payments.

18 **E.** Immediately upon entry of this order, Mr. Hanchett shall deliver possession to the  
19 receiver the asset identified in subsection V.A. (the "Hanchett asset"). The receiver is  
20 hereby directed to market and sell the Hanchett asset. Mr. Hanchett shall take all steps  
21 necessary to assist the receiver in the sale of the Hanchett asset and shall not add any  
22 encumbrances on the Hanchett asset. Any transfer fees, taxes or other payments  
23 mandated from the transferor under law shall be paid from the proceeds of each sale at  
24 the time such asset is sold.  
25

- 1     **F.** All funds paid pursuant to this order shall be deposited into a fund administered by the  
2     commission or its agents to be used for equitable relief, including, but not limited to,  
3     redress to consumers, and any attendant expenses for the administration of such equitable  
4     relief. In the event that direct redress to consumers is wholly or partially impracticable or  
5     funds remain after the redress is completed, the commission may apply any remaining  
6     funds for such other equitable relief (including consumer information remedies) as it  
7     determines to be reasonably related to the defendants' practices alleged in the complaint.  
8     Any funds not used for such equitable relief shall be deposited to the United States  
9     Treasury as disgorgement. The defendants shall have no right to challenge the  
10    commission's choice of remedies or the manner of distribution under this subsection.
- 11   **G.** No portion of any payment under the judgment herein shall be deemed a payment of any  
12    fine, penalty, or punitive assessment.
- 13   **H.** The defendants relinquish all dominion, control, and title to the funds paid to the fullest  
14    extent permitted by law. The defendants shall make no claim to or demand for return of  
15    the funds, directly or indirectly, through counsel or otherwise.
- 16   **I.** The defendants agree that the facts as alleged in the complaint filed in this action shall be  
17    taken as true without further proof in any bankruptcy case or subsequent civil litigation  
18    pursued by the commission to enforce its rights to any payment or money judgment  
19    pursuant to this order, including, but not limited to, a nondischargeability complaint in  
20    any bankruptcy case. The defendants further stipulate and agree that the facts alleged in  
21    the complaint establish all elements necessary to sustain an action pursuant to section  
22    523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this order shall have  
23    collateral estoppel effect for such purposes.
- 24   **J.** In accordance with 31 U.S.C. § 7701, the defendants are hereby required, unless they  
25    have done so already, to furnish to the commission their social security and taxpayer

1 identifying numbers, which shall be used for the purposes of collecting and reporting on  
 2 any delinquent amount arising out of defendants' relationship with the government.

3 **K.** The defendants agree that they will not, whether acting directly or through any  
 4 corporation, partnership, subsidiary, division, agent, or other device, submit to any  
 5 federal or state tax authority any return, amended return, or other official document that  
 6 takes a deduction for, or seeks a tax refund or other favorable treatment for, any payment  
 7 made by the defendants pursuant to this order.

8  
 9 **VI.**  
**RIGHT TO REOPEN**

10 **IT IS FURTHER ORDERED** that:

- 11 **A.** The commission's agreement to, and the court's approval of, this order are expressly  
 12 premised upon the truthfulness, accuracy, and completeness of the defendants' financial  
 13 statements dated March 3, 2011 (the "financial statements"), all of which the defendants  
 14 assert are truthful, accurate, and complete. The defendants and the commission stipulate  
 15 that the defendants' financial statements provide the basis for the monetary judgment in  
 16 Section V of this order and that the commission has relied on the truthfulness, accuracy,  
 17 and completeness of the defendants' financial statements.
- 18 **B.** If, upon motion by the commission, this court finds that the defendants have: (1)  
 19 materially misstated in their financial statements, the value of any asset; (2) made any  
 20 material misrepresentation or omitted material information concerning their financial  
 21 condition by failing to disclose any asset that should have been disclosed in their  
 22 financial statements; or (3) made any other material misstatement or omission in their  
 23 financial statements, the court shall terminate the suspension of the monetary judgment  
 24 entered in Section V. The court, without further adjudication, shall enter a modified  
 25 judgment holding the defendants liable to the commission in the amount of one hundred

thirty million dollars (\$130,000,000) for equitable monetary relief, less any amounts turned over to the FTC pursuant to Section V of this order. Upon such reinstatement of the monetary judgment, the court shall make an express determination that the judgment shall become immediately due and payable by the defendants and the commission shall be entitled to interest computed from the day of entry of this order at the rate prescribed under 28 U.S.C. § 1961, as amended, on the unpaid balance. The commission shall be permitted to execute on the judgment immediately after the suspension is lifted and engage in discovery in aid of execution.

C. The defendants acknowledge and agree that: (1) this monetary judgment is equitable monetary relief, solely remedial in nature, and not a fine, penalty, punitive assessment, or forfeiture; (2) any proceedings instituted under this section would be in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including any other proceedings that the FTC may initiate to enforce this order; and (3) all money paid to satisfy the monetary judgment is irrevocably paid for purposes of settlement between the parties.

D. Should this order be modified pursuant to this section, this order, in all other respects, shall remain in full force and effect unless otherwise ordered by the court.

## VII.

### PROHIBITION ON RELEASE OF CUSTOMER INFORMATION OR CUSTOMER LISTS

**IT IS FURTHER ORDERED** that the defendants and their representatives, whether acting directly or through any corporation, partnership, subsidiary, division, agent, or other device, are permanently restrained and enjoined from:

A. Disclosing, using, or benefitting from customer information, including the name, address, telephone number, e-mail address, social security number, other identifying information,

1 or any data that enables access to a customer's account (including a credit card, bank  
 2 account, or other financial account), of any person that the defendants obtained prior to  
 3 entry of this order in connection with the advertisement, marketing, promotion, offering  
 4 for sale, or sale of any business coaching program; and

5 **B.** Failing to dispose of such customer information in all forms in their possession, custody,  
 6 or control within thirty (30) days after entry of this order. Disposal shall be by means  
 7 that protect against unauthorized access to the customer information, such as by burning,  
 8 pulverizing, or shredding any papers, and by erasing or destroying any electronic media,  
 9 to ensure that the customer information cannot practicably be read or reconstructed.

10 *Provided, however,* that customer information need not be disposed of if currently under the  
 11 control of the commission or the court-appointed receiver. Further, such information may be  
 12 disclosed, to the extent requested by a government agency or required by a law, regulation, or  
 13 court order.

14  
 15 **VIII.**  
**LIFTING OF ASSET FREEZE**

16 **IT IS FURTHER ORDERED** that the freeze of the defendants' assets set forth in the  
 17 preliminary injunction entered by this court on March 25, 2011, shall be lifted to the extent  
 18 necessary to turn over the defendants' assets as required by Section V of this order.

19  
 20 **IX.**  
**APPOINTMENT OF RECEIVER TO WIND DOWN**  
**CORPORATE DEFENDANTS AND LIQUIDATE ASSETS**

21 **IT IS FURTHER ORDERED** that Robb Evans & Associates, LLC, the receiver  
 22 appointed by prior orders of this court, is hereby appointed receiver for the purpose of taking the  
 23 necessary steps to wind down the business of the corporate defendants, liquidate their assets, and  
 24 pay any net proceeds to the FTC to satisfy the monetary judgment in this order. In carrying out  
 25

1 these duties, the receiver shall be the agent of this court, shall be accountable directly to this  
2 court, and is authorized and directed to:

- 3     **A.** Take any and all steps that the receiver concludes are appropriate to wind down the  
4         corporate defendants;
- 5     **B.** Continue to exercise full control over the corporate defendants and continue to collect,  
6         marshal, and take custody, control, and possession of all the funds, property, premises,  
7         accounts, documents, mail, and other assets of, or in the possession or under the control  
8         of, the corporate defendants, wherever situated, the income and profits therefrom, and all  
9         sums of money now or hereafter due or owing to the corporate defendants, with full  
10         power to collect, receive, and take possession of all goods, chattels, rights, credits,  
11         monies, effects, lands, leases, books and records, limited partnership records, work  
12         papers, and records of accounts, including computer-maintained information, contracts,  
13         financial records, monies on hand in banks and other financial institutions, and other  
14         papers and documents of other individuals, partnerships, or corporations whose interests  
15         are now held by or under the direction, possession, custody, or control of the corporate  
16         defendants (the "receivership estate");
- 17     **C.** Continue to have full control over the management and personnel of the corporate  
18         defendants, including the authority to remove, as the receiver deems necessary or  
19         advisable, any director, officer, independent contractor, employee, or agent of these  
20         defendants from control of, management of, or participation in, the affairs of these  
21         defendants;
- 22     **D.** Take all steps necessary or advisable, including issuing subpoenas, to locate and liquidate  
23         all other assets of the corporate defendants, cancel the corporate defendants' contracts,  
24         collect on amounts owed to the corporate defendants, and take such other steps as may be  
25         necessary to wind-down, terminate, and dissolve the corporate defendants efficiently;

- 1       **E. Take all steps necessary or advisable, including issuing subpoenas, to identify the name,**  
2       **address, telephone number, date of purchase, program or product purchased, total amount**  
3       **paid, amount of any full or partial refund or chargeback, and payment information for**  
4       **consumers who were charged by the corporate defendants, and provide the FTC, upon**  
5       **request, with any customer records or other business records of the corporate defendants;**
- 6       **F. Make payments and disbursements from the receivership estate that are necessary or**  
7       **advisable for carrying out the directions of, or exercising the authority granted by, this**  
8       **order. The receiver shall apply to the court for prior approval of any payment of any debt**  
9       **or obligation incurred by the corporate defendants prior to the date of entry of the**  
10       **temporary restraining order in this action, except payments that the receiver deems**  
11       **necessary or advisable to secure and liquidate assets of the corporate defendants, such as**  
12       **rental payments or payment of liens;**
- 13       **G. Continue to perform all acts necessary or advisable to complete an accounting of the**  
14       **receivership assets, and prevent unauthorized transfer, withdrawal, or misapplication of**  
15       **assets;**
- 16       **H. Continue to maintain accurate records of all receipts and expenditures that the firm makes**  
17       **as receiver;**
- 18       **I. Enter into contracts and purchase insurance as advisable or necessary;**
- 19       **J. Continue to defend, compromise, adjust, or otherwise dispose of any or all actions or**  
20       **proceedings instituted in the past or in the future against the receiver in the firm's role as**  
21       **receiver, or against the corporate defendants, as the receiver deems necessary and**  
22       **advisable to carry out the receiver's mandate under this order;**
- 23       **K. Continue to institute, compromise, adjust, appear in, intervene in, or become party to**  
24       **such actions or proceedings in state, federal, or foreign courts or arbitration proceedings**  
25



1 as the receiver deems necessary and advisable to carry out the receiver's mandate under  
2 this order;

3 **L. Continue to maintain bank accounts created as designated depositories for funds of the**  
4 **corporate defendants, and make all payments and disbursements from the receivership**  
5 **estate from such an account;**

6 **M. Continue to perform all incidental acts that the receiver deems to be advisable or**  
7 **necessary, which includes retaining, hiring, or dismissing any employees, independent**  
8 **contractors, or agents;**

9 **N. Continue to cooperate with reasonable requests for information or assistance from any**  
10 **state or federal law enforcement agency;**

11 **O. Dispose of, or arrange for the disposal of, the records of the corporate defendants no later**  
12 **than six months after the court's approval of the receiver's final report as to the**  
13 **receivership estate, except that:**

14 1. to the extent that such records are reasonably available, the receiver shall arrange  
15 for records sufficient to ascertain the funds that an individual consumer paid to  
16 the corporate defendants and any refunds provided to individual consumers, to be  
17 retained for a minimum of one year from the entry of this order, and

18 2. if state or local law regulating the corporate defendants' businesses requires the  
19 retention of particular records for a specified period, the receiver shall arrange for  
20 such records to be disposed of after the specified period has expired.

21 To safeguard the privacy of consumers, records containing personal financial information  
22 shall be shredded, incinerated, or otherwise disposed of in a secure manner. For records  
23 that must be retained, the receiver may elect to retain records in their original form or to  
24 retain photographic or electronic copies;

- 1     **P.** Perform all acts necessary to protect, conserve, preserve, and prevent waste or dissipation  
2         of the corporate defendants' assets until their sale;
- 3     **Q.** Sell the corporate defendants' assets without further order of the court;
- 4     **R.** Enter into agreements in connection with the reasonable and necessary performance of  
5         the receiver's duty to sell the corporate defendant's assets, including, but not limited to,  
6         the retention of assistants, agents, or other professionals to assist in the sale of these  
7         assets; and
- 8     **S.** Distribute to the commission, without further order of the court, the funds received from  
9         the sale of the corporate defendant's assets.

10  
11                     **X.**  
                   **COMPENSATION OF RECEIVER**

12         **IT IS FURTHER ORDERED** that the receiver and all personnel hired by the receiver,  
13 including counsel to the receiver and accountants, are entitled to reasonable compensation for the  
14 performance of duties pursuant to this order from the assets now held by, in the possession or  
15 control of, or which may be received by, the corporate defendant. The receiver shall apply to the  
16 court for approval of specific amounts of compensation and expenses, and must not increase the  
17 hourly rates used as the bases for such fee applications without prior approval of the court.

18  
19                     **XI.**  
                   **RECEIVER'S FINAL REPORT AND DISBURSEMENT**

20         **IT IS FURTHER ORDERED** that:

- 21     **A.** The receiver shall, as directed in Section V of this order, liquidate the assets of the  
22         corporate defendant as soon as practicable. No later than sixty (60) days from the date of  
23         the entry of this order, the receiver shall file and serve on the parties a report (the "final  
24         report") to the court that details the steps taken to dissolve the receivership estate. The  
25         final report must include an accounting of the receivership estate's finances and total

1 assets and a description of what other actions, if any, must be taken to wind down the  
2 corporate defendants.

3 **B.** The receiver shall mail copies of the final report to all known creditors of the corporate  
4 defendants with a notice stating that any objections to paying any assets of the corporate  
5 defendants to satisfy the receiver's costs and expenses and the monetary judgment set  
6 forth in this order must be submitted to the court and served by mail upon the receiver  
7 and the parties within thirty (30) days of the mailing of the final report.

8 **C.** No later than thirty (30) days after submission of the final report, the receiver shall file an  
9 application for payment of compensation and expenses associated with his performance  
10 of his duties as receiver.

11 **D.** The court will review the final report and any objections to the report and, absent a valid  
12 objection, will issue an order directing that the receiver:

- 13 1. pay the reasonable costs and expenses of administering the receivership estate,  
14 including compensation of the receiver and the receiver's personnel authorized by  
15 Section X of this order or other orders of this court and the actual out-of-pocket  
16 costs incurred by the receiver in carrying out his duties; and
- 17 2. pay all remaining funds to the FTC or its designated agent to reduce the monetary  
18 judgment in Section V.

19 **E.** If subsequent action (such as the completion of tax returns or further action to recover  
20 funds for the receivership estate) are appropriate, the receiver shall file an additional  
21 report (a "supplemental report") describing the subsequent actions and a subsequent  
22 application for the payment of fees and expenses related to the subsequent action.

23 **F.** With court approval, the receiver may hold back funds for a specified period as a reserve  
24 to cover additional fees and costs related to actions to be addressed in a supplemental  
25 report. If the receiver does not make a supplemental application for fees and expenses

1 within the specified period, or if funds remain in the reserve fund after the payment of  
2 fees and expenses approved by the court in response to such a supplemental application,  
3 all funds in the reserve funds shall be immediately paid to the FTC or its designated  
4 agent.

5  
6 **XII.**  
**ORDER ACKNOWLEDGMENTS**

7 **IT IS FURTHER ORDERED** that the defendants obtain acknowledgments of receipt of  
8 this order:

- 9 **A.** Within seven (7) days of entry of this order, each defendant must submit to the  
10 commission an acknowledgment of receipt of this order sworn under penalty of perjury.
- 11 **B.** For five (5) years after entry of this order, each individual defendant for any business he,  
12 individually or collectively with any other defendant named in the complaint, is the  
13 majority owner or directly or indirectly controls, and corporate defendants, must deliver a  
14 copy of this order to: (1) all principals, officers, directors, and managers; (2) all  
15 employees, agents, and representatives who participate in telemarketing; and (3) any  
16 business entity resulting from any change in structure as set forth in XIII below. Delivery  
17 must occur within seven (7) days of entry of this order for current personnel. To all  
18 others, delivery must occur before they assume their responsibilities.
- 19 **C.** From each individual or entity to which a defendant delivered a copy of this order, that  
20 defendant must obtain, within thirty (30) days, a signed and dated acknowledgement of  
21 receipt of this order.  
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**XIII.  
COMPLIANCE REPORTING**

**IT IS FURTHER ORDERED** that Defendants make timely submissions to the Commission:

- A.** One (1) year after entry of this Order, each Defendant must submit a compliance report, sworn under penalty of perjury.
1. Each Corporate Defendant must: (a) designate at least one telephone number and an e-mail, physical, and postal address as points of contact, which representatives of the Commission may use to communicate with defendants; (b) identify all of that Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the products and services offered, the means of advertising, marketing, and sales, and the involvement of any other defendant (which Individual Defendant must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how that defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission;
  2. Additionally, each Individual Defendant must: (a) identify all telephone numbers and all e-mail, Internet, physical, and postal addresses, including all residences; (b) identify all titles and roles in all business activities, including any business for which he performs services whether as an employee or otherwise and any entity in which he has any ownership interest; and (c) describe in detail his involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

1       **B.** For ten (10) years following entry of this order, each corporate defendant must submit  
2       a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any  
3       change in the following:

- 4           1. Each defendant must report any change in: (a) any designated point of  
5           contact; or (b) the structure of the corporate defendant or any entity that the  
6           defendant has any ownership interest in or directly or indirectly controls that  
7           may affect compliance obligations arising under this order, including:  
8           creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or  
9           affiliate that engages in any acts or practices subject to this order.
- 10          2. Additionally, each individual defendant must report any change in: (a) name,  
11          including aliases or fictitious names, or residence address; or (b) title or role in  
12          any business activity, including any business for which he performs services  
13          whether as an employee or otherwise and any entity in which he has any  
14          ownership interest, and identify its name, physical address, and Internet  
15          address, if any.

16       **C.** Each defendant must submit to the commission notice of the filing of any bankruptcy  
17       petition, insolvency proceeding, or any similar proceeding by or against such  
18       defendant within fourteen (14) days of its filing.

19       **D.** Any submission to the commission required by this order to be sworn under penalty  
20       of perjury must be true and accurate and comply with 18 U.S.C. § 1746, such as by  
21       concluding: "I declare under penalty of perjury under the laws of the United States of  
22       America that the foregoing is true and correct. Executed on: \_\_\_\_\_" and supplying  
23       the date, signatory's full name, title (if applicable), and signature.

24       **E.** Unless otherwise directed by a commission representative in writing, all submissions  
25       to the commission pursuant to this order must be e-mailed to DEbrief@ftc.gov or sent

1 by overnight courier (not the U.S. Postal Service) to: Associate Director for  
 2 Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600  
 3 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin:  
 4 FTC v. Steven J. Sonnenberg, James G. Hanchett, Fortune Learning, LLC and The  
 5 Shipper, LLC d/b/a Wholesalematch.com (X110017).

#### 6 7 **XIV.** 8 **RECORDKEEPING**

9 **IT IS FURTHER ORDERED** that Defendants must create certain records for ten (10)  
 10 years after entry of the Order, and retain each such record for five (5) years. Specifically, for any  
 11 business in which Corporate Defendants or Individual Defendants, individually or collectively  
 12 with any other defendant named in the Complaint, is a majority owner or directly or indirectly  
 13 controls, must maintain the following records:

- 14 **A.** Accounting records showing the revenues from all goods or services sold, all costs  
 15 incurred in generating those revenues, and the resulting net profit or loss;
- 16 **B.** Personnel records showing, for each person providing services, whether as an employee  
 17 or otherwise, that person's: name, addresses, and telephone numbers; job title or  
 18 position; dates of service; and, if applicable, the reason for termination;
- 19 **C.** Customer files showing the names, addresses, telephone numbers, dollar amounts paid,  
 20 and the quantity and description of goods or services purchased;
- 21 **D.** Complaints and refund requests, whether received directly or indirectly, such as through a  
 22 third party, and any response;
- 23 **E.** All records necessary to demonstrate full compliance with each provision of this Order,  
 24 including all submissions to the Commission; and
- 25 **F.** A copy of each advertisement or other marketing material.

**XV.  
COMPLIANCE MONITORING**

**IT IS FURTHER ORDERED** that, for the purpose of monitoring the defendants' compliance with this order, including the financial representations upon which part of the judgment was suspended and any failure to transfer any assets as required by this order:

- A. Within fourteen (14) days of receipt of a written request from a representative of the commission, each defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents, for inspection and copying. The commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69, provided that defendants, after attempting to resolve a dispute without court action and for good cause shown, may file a motion with this court seeking an order including one or more of the protections set forth in Rule 26(c).
- B. For matters concerning this order, the commission is authorized to communicate directly with each defendant. The defendants must permit representatives of the commission to interview any employee or other person affiliated with any defendant who has agreed to such an interview. The person interviewed may have counsel present.
- C. The commission may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to the defendants or any individual or entity affiliated with defendants, without the necessity of identification or prior notice. Nothing in this order limits the commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.



**XIV.**

**RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED** that this court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this order.

**IT IS SO ORDERED:**

A handwritten signature in cursive script, appearing to read "James C. Mahan", written over a horizontal line.

The Honorable James C. Mahan

**UNITED STATES DISTRICT JUDGE**

**DATED:** December 20, 2012

1 The parties consent to the terms and conditions set forth above and consent to entry of this  
2 stipulated final judgment and order for permanent injunction and monetary relief at the court's  
3 convenience and without further notice to the parties.  
4

5 **FOR THE PLAINTIFF:**

6  
7 

8 Dated: 12/18/12

9 **SHAMEKA L. GAINES**

10 sgainey@ftc.gov

11 **ROSS A. FELDMANN**

12 rfeldmann@ftc.gov

13 Federal Trade Commission

14 600 Pennsylvania Avenue, NW, H-286

15 Washington, DC 20580

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18 202-326-3395 (Fax)

19 **BLAINE T. WELSH**

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24 Las Vegas, NV 89101

25 702-388-6336

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Attorneys for Plaintiff

**FEDERAL TRADE COMMISSION**

1 FOR THE DEFENDANTS:

2  
3 FOR DEFENDANT SONNENBERG:

4  
5 St S Dated: 7-26-12  
6 Steven J. Sonnenberg

7  
8 FOR DEFENDANT HANCHETT:

9 James G. Hanchett Dated: 7-26-12  
10 James G. Hanchett

11  
12 FOR DEFENDANT FORTUNE LEARNING:

13  
14 James G. Hanchett Dated: 7-26-12  
15 James G. Hanchett, as an officer of  
16 Fortune Learning, LLC.

17  
18 FOR DEFENDANT WSM:

19  
20 St S Dated: 7-26-12  
21 Steven J. Sonnenberg, as an officer of  
22 The Shipper, LLC d/b/a Wholesalematch.com  
23  
24  
25

1 **COUNSEL FOR DEFENDANTS:**

2  
3  
4  Dated: 6-26-2012

5 MATTHEW HOWELL, ESQ.  
6 FILLMORE SPENCER LLC  
7 3301 North University Avenue  
8 Provo, UT 84604  
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**Certificate of Service**

I hereby certify that on December 18, 2012, I electronically filed the foregoing document with the clerk of the court using CM/ECF, which will send a notice of electronic filing to all counsel of record.

/s/ Shameka L. Gainey  
Shameka L. Gainey